

REMARKS

Claims 2, 3, 11-18 are pending in the application.

Claims 1 and 4-10 have been canceled.

Claims 2, 11, 12 and 14 have been amended to correct grammar and claim dependencies.

New claim 16 has been added. Support for claim 16 can be found in claim 2.

New claim 17 has been added. Support for this claim can be found in the Specification on page 28, lines 7-17.

New claim 18 has been added. Support for this claim is found at least at page 21, lines 1-24.

No new matter has been added.

Rejections Under 35 USC § 112, First Paragraph

Written Description

The Examiner has rejected claims 2, 3, 5-7 and 11-15 for lack of written description, but states that the rejection can be overcome by amending the claims to recite "the" amino acid sequence of SEQ ID NO:3. Applicants have so amended the claims, thereby overcoming the rejection.

Enablement

The Examiner has rejected claims 2, 3, 5-7 and 11-15 for lack of enablement, but admits that the specification is enabling for a tumor antigen peptide containing amino acid SEQ ID NO:3. Applicants have canceled claims 5-7 amended the claims 2, 3 and 11-15 to require the presence of SEQ ID NO:3, thereby overcoming the rejection.

New claims 16 and 17 recite peptides that are a subset of the amino acid sequence of SEQ ID NO: 2. New claim 18 recites peptides that are a subset of SEQ ID NO: 2, or a variant of that sequence that retains a HLA-A24 binding motif as disclosed at page 21 of the specification and experimentally exemplified in Example 6. Thus, there can be no doubt that all of the present claims are enabled by the specification and the instant rejection should not be applied against the new claims.

Rejections Under 35 USC § 102

The Examiner has rejected claims 2, 3, 5-7 and 11-15 for anticipation by Uniprot-7.2 database Accession No. Q15020 and Nagase et al. (1995). Specifically, the Examiner states “claimed invention reciting partial peptide of SEQ ID NO:2 comprising an amino acid sequence of SEQ ID NO:3 reads on entirety of the amino acid sequence of SEQ ID NO:2 because of the open language “comprising.” Applicants respectfully traverse.

First, as noted in the amendment filed July 18, 2007, Nagase et al. disclose the entire sequence for SEQ ID NO:2. But Applicants claim states “[a]n isolated tumor antigen peptide that is a partial peptide of a protein consisting of the amino acid sequence of SEQ ID NO:2 ... (emphasis added).” In other words, Applicants state that the tumor antigen peptide cannot be the entire sequence of SEQ ID NO:2. The “wherein” clause then identifies what sequence must be present in the partial sequence of SEQ ID NO:2 – i.e. SEQ ID NO:3, alone or with some additional sequence. But here the comprising language “comprising” SEQ ID NO:3 is limited by the language that the peptide is a “partial peptide” of SEQ ID NO:2. That is, while the sequence of the resulting peptide contains SEQ ID NO:3, it must still be only a partial peptide of SEQ ID NO:2. Consequently, the Examiner’s statement that use of the open language “comprising” reads on the entirety of SEQ ID NO:2 is wrong – the end result must still be a partial peptide of the protein of SEQ ID NO:2; the claim does not encompass a protein having an amino acid sequence that is the entirety of SEQ ID NO: 2. Therefore, Applicants respectfully request reconsideration and removal of the instant rejection.

Rejection for Obviousness-type Double-Patenting

The Examiner has maintained his provisional rejection of claims 2, 3, 5-7 and 11-15 for obviousness-type double patenting in view of claims 35 and 43 of copending Application No. 10/505,955. Applicants respectfully request that this rejection be held in abeyance until the claims in the '955 application are found patentable.

Rejections Under 35 USC § 112, Second Paragraph

The Examiner has rejected claim 7 for indefinite claim language. Applicants have canceled claim 7, thereby overcoming the rejection.

Additional claims reciting the term "derivative" have been amended to delete that word, thus avoiding any further rejection based upon lack of antecedent basis.

Conclusion

In view of the above amendments and remarks, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Susan W. Gorman Reg. No. 47,604 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136 (a), Applicant respectfully petition for a two (2) month extension of time for filing a reply in connection with the present application, and the required fee of \$460.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 
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